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**Criminal Justice & Corrections  
Committee**

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**HB 1978**

**Brief Description:** Requiring an additional examination of offenders to determine sexual dangerousness.

**Sponsors:** Representatives O'Brien and Sells.

**Brief Summary of Bill**

- Where an offender has been convicted of a sex offense and as part of the end of sentence review process, adds the requirement that the examination of the offender include a prediction of whether the offender has a congenital or acquired condition affecting his or her emotional or volitional capacity that predisposes the offender to commit criminal sexual acts such that the offender is deemed a menace to the health and safety of others.

**Hearing Date:** 2/22/05

**Staff:** Kathryn Leathers (786-7114).

**Background:**

As part of the end of sentence review process, the Department of Corrections (Department) is required to conduct an examination of sex offenders and, where appropriate, dangerous, mentally ill offenders who are, as a condition of sentencing, subject to the Department's supervision. "Dangerous, mentally ill offenders" means offenders who are reasonably believed to be dangerous to themselves or others and who have a mental disorder.

The purpose of the examination is to determine an offender's sexual dangerousness, including a prediction of the probability that the offender will engage in sex offenses if released. Sex offenders and, when appropriate, dangerous, mentally ill offenders are required to participate in the subject examination. The Indeterminate Sentencing Review Board (Board) may contract for an additional, independent examination, subject to the standards set forth by statute.

The Board shall impose conditions and instructions permitted by statute and, in doing so, shall consider the Department's recommendations. The Board may also impose conditions in addition to those recommended by the Department.

If the offender refuses to participate in the examination, the Board may consider this failure in determining whether to release the offender. The Board shall order the offender released, subject

to appropriate conditions, unless the Board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released.

**Summary of Bill:**

Requires that, in addition to a determination of an offender's sexual dangerousness and a prediction of the probability that the offender will engage in sex offenses if released, the examination of the defendant (that the Department is required to conduct as part of the end of sentence review process) shall also include a prediction of whether the offender has a congenital or acquired condition affecting his or her emotional or volitional capacity that predisposes the offender to commit criminal sexual acts such that the offender is deemed a menace to the health and safety of others.

Pursuant to RCW 71.09, "mental abnormality" is defined as "a congenital or acquired condition affecting his or her emotional or volitional capacity that predisposes the offender to commit criminal sexual acts such that the offender is deemed a menace to the health and safety of others the phrase. "

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.